

Appendix A



U.S. Department of Justice
Civil Rights Division
NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

VIA EMAIL

950 Pennsylvania Avenue, N.W.
Karen Ferguson, EMP, PHB, Room 4701
Washington, DC 20530

July 30, 2020

Ms. Dana Emily Caraway (Dowd Caraway)
c/o David Brown, Esquire
TLDEF
520 8th Ave., Suite 2204
New York, NY 10018

Re: EEOC Charge Against State of North Carolina, North Carolina Dept. of Public Safety, et al.
No. 433202002566

Dear Ms. Caraway (Dowd Caraway):

Because you filed the above charge with the Equal Employment Opportunity Commission, and the Commission has determined that it will not be able to investigate and conciliate that charge within 180 days of the date the Commission assumed jurisdiction over the charge and the Department has determined that it will not file any lawsuit(s) based thereon within that time, and because you through your attorney have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice.

The investigative file pertaining to your case is located in the EEOC Raleigh Area Office, Raleigh, NC.

This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

Eric S. Dreiband
Assistant Attorney General
Civil Rights Division

by /s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Raleigh Area Office, EEOC
State of North Carolina, North Carolina Dept. of Public Safety, et al.



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Civil Rights Division
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950 Pennsylvania Avenue, N.W.
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Washington, DC 20530

July 30, 2020

Ms. Dana Emily Caraway (Dowd Caraway)
c/o David Brown, Esquire
TLDEF
520 8th Ave., Suite 2204
New York, NY 10018

Re: EEOC Charge Against State of North Carolina, Dept. of Public Safety, et al.
No. 433202002564

Dear Ms. Caraway (Dowd Caraway):

Because you filed the above charge with the Equal Employment Opportunity Commission, and the Commission has determined that it will not be able to investigate and conciliate that charge within 180 days of the date the Commission assumed jurisdiction over the charge and the Department has determined that it will not file any lawsuit(s) based thereon within that time, and because you through your attorney have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice.

The investigative file pertaining to your case is located in the EEOC Raleigh Area Office, Raleigh, NC.

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Sincerely,

Eric S. Dreiband
Assistant Attorney General
Civil Rights Division

by /s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Raleigh Area Office, EEOC
State of North Carolina, Dept. of Public Safety, et al.



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July 30, 2020

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c/o David Brown, Esquire
TLDEF
520 8th Ave., Suite 2204
New York, NY 10018

Re: EEOC Charge Against State of North Carolina, Dept. of Public Safety, et al.
No. 433202002563

Dear Ms. Caraway (Dowd Caraway):

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Assistant Attorney General
Civil Rights Division

by /s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Raleigh Area Office, EEOC
State of North Carolina, Dept. of Public Safety, et al.



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July 30, 2020

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c/o David Brown, Esquire
TLDEF
520 8th Ave., Suite 2204
New York, NY 10018

Re: EEOC Charge Against State of North Carolina, Dept. of Public Safety, et al.
No. 433202002560

Dear Ms. Caraway (Dowd Caraway):

Because you filed the above charge with the Equal Employment Opportunity Commission, and the Commission has determined that it will not be able to investigate and conciliate that charge within 180 days of the date the Commission assumed jurisdiction over the charge and the Department has determined that it will not file any lawsuit(s) based thereon within that time, and because you through your attorney have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice.

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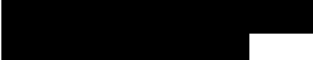
Sincerely,

Eric S. Dreiband
Assistant Attorney General
Civil Rights Division

by /s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Raleigh Area Office, EEOC
State of North Carolina, Dept. of Public Safety, et al.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: **Dana Aka Dowd Caraway**
From: **Raleigh Area Office**
434 Fayetteville Street, Suite 700
Raleigh, NC 27601☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

433-2020-02566
Tonya A. Lennox,
Enforcement Supervisor
(919) 856-4714

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice;** or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

☐

More than 180 days have passed since the filing of this charge.

☒

Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.

☒

The EEOC is terminating its processing of this charge.

☐

The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, **the paragraph marked below applies to your case:**

☐

The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice.** Otherwise, your right to sue based on the above-numbered charge will be lost.

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The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



Enclosures(s)

Glory Gervacio Saure,
Area Office Director
07/21/2020

(Date Mailed)

cc:

**NC STATE HEALTH PLAN FOR TEACHERS & STATE
 EMPLOYEES**
3200 Atlantic Ave
Raleigh, NC 27604
DAVID BROWN, Esq.
TRANSGENDER LEGAL DEFENSE & EDUCATION
FUND, INC
520 8TH AVE
STE 2204
New York, NY 10018

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), or the Age Discrimination in Employment Act (ADEA):

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10** -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

Enclosures(s)

cc: **BEN GARNER, Esq.**
DEPARTMENT OF STATE TREASURER
3200 Atlantic Ave
Raleigh, NC 27604

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: **Dana Aka Dowd Caraway**From: **Raleigh Area Office
434 Fayetteville Street, Suite 700
Raleigh, NC 27601**☐

On behalf of person(s) aggrieved whose identity is
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

433-2020-02564
**Tonya A. Lennox,
 Enforcement Supervisor**
(919) 856-4714

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

☐

More than 180 days have passed since the filing of this charge.

☒

Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.

☒

The EEOC is terminating its processing of this charge.

☐

The EEOC will continue to process this charge.

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On behalf of the Commission



Enclosures(s)

**Glory Gervacio Saure,
 Area Office Director**
07/21/2020

(Date Mailed)

cc:

**BOARD OF TRUSTEES OF THE STATE HEALTH PLAN
 FOR TEACHERS AND STATE EMPLOYEES (agent of
 employer)
 3200 Atlantic Ave
 Raleigh, NC 27604**

**DAVID BROWN, Esq.
 TRANSGENDER LEGAL DEFENSE & EDUCATION
 FUND, INC
 520 8TH AVE
 STE 2204
 New York, NY 10018**

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Enclosures(s)

cc: **BEN GARNER, Esq.**
DEPARTMENT OF STATE TREASURER
3200 ATLANTIC AVE
Raleigh, NC 27604

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: **Dana Aka Dowd Caraway**From: **Raleigh Area Office
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On behalf of person(s) aggrieved whose identity is
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EEOC Charge No.

EEOC Representative

Telephone No.

433-2020-02563
**Tonya A. Lennox,
 Enforcement Supervisor**
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On behalf of the Commission



Enclosures(s)

**Glory Gervacio Saure,
 Area Office Director**
07/21/2020

(Date Mailed)

cc: **MONIQUE EDWARDS
 EEO OFFICER-EMPLOYEE RELATIONS
 STATE OF NORTH CAROLINA**

**DAVID BROWN, Esq.
 TRANSGENDER LEGAL DEFENSE & EDUCATION
 FUND, INC
 520 8TH AVE
 STE 2204
 New York, NY 10018**

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

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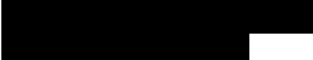
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NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: **Dana Aka Dowd Caraway**
From: **Raleigh Area Office**
434 Fayetteville Street, Suite 700
Raleigh, NC 27601☐

On behalf of person(s) aggrieved whose identity is
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EEOC Charge No.

EEOC Representative

Telephone No.

433-2020-02560
Tonya A. Lennox,
Enforcement Supervisor
(919) 856-4714

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice;** or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

☐

More than 180 days have passed since the filing of this charge.

☒

Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.

☒

The EEOC is terminating its processing of this charge.

☐

The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

☐

The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice.** Otherwise, your right to sue based on the above-numbered charge will be lost.

☐

The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



Enclosures(s)

Glory Gervacio Saure,
Area Office Director
07/21/2020

(Date Mailed)

cc:

NC DEPARTMENT OF PUBLIC SAFETY
512 N. Salisbury Street
4204 Mail Service Center
Raleigh, NC 27699
DAVID BROWN, Esq.
TRANSGENDER LEGAL DEFENSE & EDUCATION
FUND, INC
520 8TH AVE
STE 2204
New York, NY 10018

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), or the Age Discrimination in Employment Act (ADEA):

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10** -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

Enclosures(s)

cc:

EEOC Form 5 (11/08)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☐

FEPA

☒

EEOC

N.C. Office of Administrative Hearings, Civil Rights Division

and EEOC

Name (Indicate Mr., Ms., Mrs.)

Ms. Dana Emily Caraway, also known as Dowd Caraway

Home Phone (Incl. Area Code)

Date of Birth

Street Address

City, State and ZIP Code

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

North Carolina Department of Public Safety

No. Employees, Members

More than 15

Phone No. (Include Area Code)

(919) 733-2126

Street Address

512 North Salisbury Street

City, State and ZIP Code

Raleigh, NC 28655

Name

State of North Carolina

No. Employees, Members

More than 15

Phone No. (Include Area Code)

(919) 733-2913

Street Address

1425 Mail Service Center

City, State and ZIP Code

Raleigh, NC 28655

DISCRIMINATION BASED ON (Check appropriate box(es).)

☐

RACE

☐

COLOR

☒

SEX

☐

RELIGION

☐

NATIONAL ORIGIN

☐

RETALIATION

☐

AGE

☐

DISABILITY

☐

GENETIC INFORMATION

☐

OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

01/01/2017☒

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)).

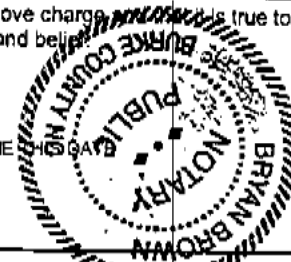
Additional employers listed here. Please see attached statement for narrative of particulars.

Board of Trustees of the State Health Plan for Teachers and State Employees (agent of employer)
3200 Atlantic Ave Raleigh, NC 27604 More than 15 employees (855) 859-0966North Carolina State Health Plan for Teachers and State Employees (agent of employer)
3200 Atlantic Ave Raleigh, NC 27604 More than 15 employees (855) 859-0966

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.
SIGNATURE OF COMPLAINANTSUBSCRIBED AND SWORN TO BEFORE ME
(month, day, year)**07/17/20**

Attached Statement
EEOC Charge of Discrimination
Charging Party Dana Caraway

The particulars are:

1. I am a 50-year-old transgender woman, and I am currently a resident of Morganton, North Carolina.
2. I have worked as an officer of the North Carolina Department of Public Safety since 1994.
3. I have been very successful in my position. I have been promoted to the position of supervisor in the Division of Adult Correction and Juvenile Justice. I currently hold the rank of Sergeant.
4. As a North Carolina state employee, I participate in the North Carolina State Health Plan for Teachers and State Employees 80/20 PPO Plan ("Health Plan") administered by Blue Cross and Blue Shield of North Carolina ("BCBSNC"). The Health Plan is a division of the North Carolina Department of State Treasurer. It is governed by a Board of Trustees ("Board"), which has the authority to remove exclusions in the Health Plan.
5. I receive part of my compensation in the form of health care benefits, and I contribute \$50 per month to my Health Plan.
6. BCBSNC uses internal corporate medical policies to make medical necessity determinations when evaluating claims. Since at least 2011, BCBSNC has generally recognized the medical necessity of gender-confirmation surgeries in its medical policy on Gender Confirmation Surgery and Hormone Therapy,¹ which outlines the clinical criteria for when it considers such care to be medically necessary.
7. The Health Plan covers, among other things, laboratory testing, mental health treatment, and physician services.
8. Yet the Health Plan explicitly singles out and excludes: "[p]sychological assessment and psychotherapy treatment in conjunction with proposed gender transformation," and

¹

https://www.bluecrossnc.com/sites/default/files/document/attachment/services/public/pdfs/medicalpolicy/gender_confirmation_surgery_and_hormone_therapy.pdf.

"[t]reatment or studies to or in connection with sex changes or modifications and related care" (the Exclusions).²

9. Despite contributing the same amount from each paycheck as my co-workers, I receive in return unequal health care benefits, and, therefore lesser compensation, because the Health Plan explicitly excludes all treatments for gender dysphoria and other treatments related to "gender transformation" or "sex changes." The Health Plan has no legitimate, nondiscriminatory basis to single out transgender-related care for the Exclusions.
10. As outlined below, the Health Plan's discriminatory exclusion has subjected me to sex discrimination by denying me access to medically necessary care because of sex.

Gender Dysphoria

11. I have a serious medical condition called gender dysphoria, which arises when the sex of the brain develops on a divergent path from the external sex characteristics of the body.
12. This well-established medical condition is typically alleviated by hormonal and surgical treatment to align external sex characteristics with the brain. When left untreated, gender dysphoria can result in serious psychological debilitation, including depression, anxiety, substance use, suicidality, and other mental health issues. Therefore, such medically necessary treatments are widely covered under health insurance plans.
13. I was diagnosed with gender dysphoria in 2017.
14. I now live openly, rather than secretly, as a woman; and I use the name Dana Emily Caraway, rather than the traditionally-male-sounding name my parents gave me at birth. Earlier this year, I filed a petition for a court-ordered change of name to confirm my common-law name change, but my petition has not yet been granted due to court closures caused by the COVID-19 pandemic.
15. As part of my treatment, I have taken a course of hormone replacement therapy for several years, which feminized my appearance, up to a point.
16. As my appearance has changed, it has caused me more distress to continue to have a male chest, genitalia, and a voice. It is also a safety issue to appear female but to have a male-sounding voice, especially given the prison environment that I work in.

² <https://files.nc.gov/ncshp/documents/open-enrollment-documents/2020/BenefitBooks/80-20BenBookFinal4.1.20.pdf>.

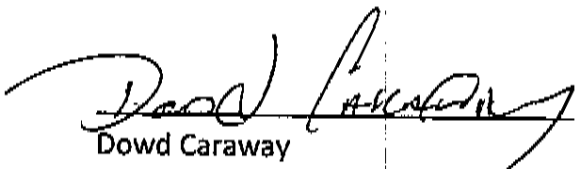
17. I need gender reassignment surgery which my therapist and psychologist have both recommended, to treat my gender dysphoria. I am currently seeking surgery for my chest, genitalia, face, and voice.
18. I am scheduled to have chest and genital reassignment surgery on August 5, 2020, with Dr. Keelee MacPhee in Durham. I am also scheduled to have voice feminization surgery on September 8, 2020. I intend to seek facial gender-confirmation surgery next year.

Denial of Coverage on the Basis of Sex

19. The Health Plan covers laboratory testing, mental health treatment and surgery, including physician services, anesthesia, and hospital expenses.
20. Yet the plan explicitly singles out and excludes: "[p]sychological assessment and psychotherapy treatment in conjunction with proposed gender transformation," and "[t]reatment or studies to or in connection with sex changes or modifications and related care."
21. The exclusion for treatments of gender dysphoria singles out transgender employees. By definition, only transgender people have a need to access mental health treatment for "gender transformation" or treatments relating to "sex changes or modifications." Because I am unable to fully enjoy my benefits of employment, I have received lesser compensation than other, non-transgender, employees.
22. BCBSNC uses internal corporate medical policies to make medical necessity determinations when evaluating claims. BCBSNC generally recognizes the medical necessity of transgender-related surgeries in its medical policy on Gender Confirmation Surgery and Hormone Therapy, which outlines the clinical criteria for when it considers such surgeries to be medically necessary.
23. To alleviate my gender dysphoria, I urgently require medically necessary surgery. I experience distress on a daily basis due to the incongruity between my body and brain. Yet, because of the Exclusions, the Health Plan will not cover my surgery.
24. My surgeon, Dr. MacPhee, sought preauthorization from BCBSNC for my upcoming chest and genital surgeries. On June 19, 2020, BCBSNC denied coverage, for the stated reason that "the requested service is not a covered benefit" because of the exclusion for "treatments . . . in connection with sex changes or modifications."

Charge

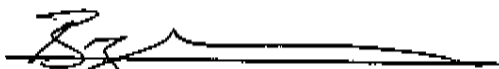
25. I am aware that the Exclusions are the subject of an ongoing federal lawsuit, *Kadel v. Folwell*, No. 1:19-CV-272, in the Middle District of North Carolina, brought by other transgender participants in the Health Plans who, like me, have been denied coverage of treatments for gender dysphoria. My counsel are the same as the counsel for the plaintiffs in that suit. I am aware that the plaintiffs in *Kadel* intend to file an Amended Complaint on August 4, 2020, to reflect that the United States Supreme Court affirmed last month in *Bostock v. Clayton County, Georgia*, No. 17-1618, that discrimination against transgender employees due to their transgender status is unlawful discrimination on the basis of sex under Title VII of the Civil Rights Act of 1964.
26. On the advice of counsel, I seek to exhaust the jurisdictional prerequisites to filing suit under Title VII by obtaining a Notice of Right to Sue before August 4, 2020. I do not seek investigation, conciliation, or legal action by the EEOC.
27. I believe that the Board of Trustees of the Health Plan and the North Carolina Department of State Treasurer participated in discriminatory employment practices with respect to compensation, terms, conditions, or privileges of employment. Offering or adopting a plan with a gender dysphoria exclusion treats transgender employees worse by providing lesser compensation and benefits than non-transgender employees. This pattern or practice of discrimination constitutes intentional discrimination and disparate treatment under Title VII.
28. As a direct result of the discrimination on the basis of sex described above, I have suffered damages including, but not limited to, lost compensation, benefits, healthcare, emotional distress and mental anguish, and attorneys' fees.


Dowd Caraway

better known as Dana Emily Caraway

Sworn to before me this

17 day of July, 2020


NOTARY PUBLIC

